

REMARKS/ARGUMENTS

Claims 1, 19, 24, 27, 53, and 72 have been revised for improved clarity. In particular the terms "at least" and "substantially identical" have been deleted, and the claims have otherwise been revised for conformity with these deletions.

Claim 54, which was not previously considered, has been canceled without prejudice for re-presentation in a continuing application. Claim 57 has been revised without altering the intended subject matter or claim scope.

No new matter has been introduced, and entry of the above revised claims is respectfully requested.

Alleged Rejections Based on Obviousness-Type Double Patenting

Claims 1-3, 5, 8-10, 12, 19-21, 23-28, 34-43, 49, 50, and 53 were provisionally rejected as unpatentable over claims 1-8, 13, and 15 of commonly assigned, copending application 10/822,300. The statement of the rejection points out that a Terminal Disclaimer may be used to obviate this provisional rejection.

Claims 1-3, 5, 8-10, 12, 18-21, 23-28, 34-43, 49, 50, and 53 were provisionally rejected as unpatentable over claims 1-5, 7-13, 15, and 17-19 of commonly assigned, copending application 10/966,673. The statement of the rejection points out that a Terminal Disclaimer may be used to obviate this provisional rejection.

Applicants submit herewith Terminal Disclaimers with respect to the two copending applications described above as well as co-pending application 11/102,621. As the Federal Circuit has set forth, the filing of a Terminal Disclaimer to obviate a rejection based on nonstatutory double patenting is not an admission of the propriety of the rejection. See *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991), which states that the "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection."

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 858-350-6100.

Respectfully submitted,



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